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BILL TEXT

CHAPTER 65
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INTRODUCED BY Assembly Members Jackson, Nakano, Correa, and Reyes
and Senator Sher

FEBRUARY 25, 1999

An act to add Sections 12812.2 and 12812.3 to the Government Code, to add Part 1.5 (commencing with Section 71040) to Division 34 of, and to add and repeal Part 1.6 (commencing with Section 71045) of Division 34 of, the Public Resources Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1102, Jackson. Environmental protection.

(1) Existing law authorizes the Governor, with respect to the California Environmental Protection Agency, to appoint not more than 3 deputies to the Secretary for Environmental Protection.

This bill would provide that one of those deputies shall be a deputy secretary for law enforcement and counsel and another deputy shall be a deputy secretary for external affairs. The bill would prescribe the duties and responsibilities of those deputies.

(2) Existing law requires a business or entity to obtain various environmental permits prior to undertaking any project that may have an impact on the environment.

This bill would require the secretary to establish permit assistance centers throughout the state to provide businesses and other entities with assistance in complying with the laws and regulations implemented by the boards, departments, and offices within the agency. The bill would also require the secretary to establish an electronic on-line permit assistance center, known as the "California Government-On Line to Desktops" (CALGOLD) program, to be available through the Internet to provide a business or entity with assistance in complying with those laws and regulations.

The bill would also require the secretary to establish no more than 8 pilot projects for the purpose of evaluating whether and how the use of an environmental management system, as defined in the bill, increases, among other things, public health and environmental protection, over the protections provided through the issuance, enforcement, and monitoring of any permit, requirement, authorization, standard, certification, or other approval issued by a federal, state, regional, or local agency for those purposes. The bill would authorize the secretary to develop evaluation and monitoring parameters for the evaluation and to develop a model memorandum of understanding to be entered into by the secretary and any regulated entity that agrees to participate in a pilot project. Under the bill, the secretary would be required to submit quarterly reports to the Governor and the Legislature on the status of the pilot projects. The bill would provide for the repeal of the latter

provisions on January 1, 2002.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12812.2 is added to the Government Code, to read:

12812.2. (a) One of the deputies to the Secretary for Environmental Protection authorized pursuant to Section 12812.1 shall be a deputy secretary for law enforcement and counsel, who, subject to the direction and supervision of the secretary, shall have the responsibility and authority to do all of the following:

(1) Develop a program to ensure that the boards, departments, offices, and other agencies that implement laws or regulations within the jurisdiction of the California Environmental Protection Agency take consistent, effective, and coordinated compliance and enforcement actions to protect public health and the environment. The program shall include training and cross-training of inspection and enforcement personnel of those boards, departments, offices, or other agencies to ensure consistent, effective, and coordinated enforcement.

(2) In consultation with the Attorney General, establish a cross-media enforcement unit to assist a board, department, office, or other agency that implements a law or regulation within the jurisdiction of the California Environmental Protection Agency, to investigate and prepare matters for enforcement action in order to protect public health and the environment. The unit may inspect and investigate a violation of a law or regulation within the jurisdiction of such board, department, office, or other agency, including a violation involving more than one environmental medium and a violation involving the jurisdiction of more than one such board, department, office, or agency. The unit shall exercise its authority consistent with the authority granted to the head of a department pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1.

(3) Refer a violation of a law or regulation within the jurisdiction of a board, department, office, or other agency that implements a law or regulation within the jurisdiction of the California Environmental Protection Agency to the Attorney General, a district attorney, or city attorney for the filing of a civil or criminal action.

(4) Exercise the authority granted pursuant to paragraph (3) only after providing notice to the board, department, office, or other agency unless the secretary determines that notice would compromise an investigation or enforcement action.

(b) Nothing in this section shall authorize the deputy secretary for law enforcement and counsel to duplicate, overlap, compromise, or otherwise interfere with an investigation or enforcement action undertaken by a board, department, office, or other agency that implements a law or regulation subject to the jurisdiction of the California Environmental Protection Agency.

(c) Notwithstanding Section 7550.5 of the Government Code, the Secretary for Environmental Protection shall report annually to the Governor and the Legislature on the implementation of this section.

SEC. 2. Section 12812.3 is added to the Government Code, to read:

12812.3. One of the deputies to the Secretary for Environmental Protection authorized pursuant to Section 12812.1 shall be a deputy secretary for external affairs who shall provide public outreach, communication to individuals and communities impacted by permitted

activities, and technical support to businesses subject to regulation by one or more boards, departments, or offices within the California Environmental Protection Agency.

SEC. 3. Part 1.5 (commencing with Section 71040) is added to Division 34 of the Public Resources Code, to read:

PART 1.5. PERMIT ASSISTANCE CENTERS

71040. (a) The Secretary for Environmental Protection shall establish permit assistance centers throughout the state to provide businesses and other entities with assistance in complying with laws and regulations implemented by every board, department, and office within the California Environmental Protection Agency. Each permit assistance center shall, to the extent feasible, incorporate permit assistance activities of local and federal entities and of other entities of the state into its operations.

(b) In addition to the centers authorized pursuant to subdivision (a), the secretary shall establish an electronic on-line permit assistance center through the Internet. The electronic on-line permit assistance center shall be available for use by any business or other entity subject to a law or regulation implemented by a board, department, or office within the California Environmental Protection Agency, and shall provide a business or other entity with assistance in complying with those laws and regulations. The center, which shall be called the "California Government-On Line to Desktops" or "CALGOLD" program, shall provide special software, "hotlinks" and other on-line resources and tools that may be used by a business or other entity to streamline and expedite compliance with laws and regulations implemented by a board, department, or office within the California Environmental Protection Agency. The CALGOLD program shall, to the extent feasible, incorporate permit assistance activities of local and federal entities and of other entities of the state into its operations.

(c) Notwithstanding Section 7550.5 of the Government Code, the Secretary for Environmental Protection shall report annually to the Governor and the Legislature on the number of permits issued, expedited, or otherwise streamlined by each center; the number and types of businesses assisted by each center; and how the assistance provided to businesses has improved environmental protection. The secretary, in consultation with the Secretary of the Trade and Commerce Agency, shall report on the permit assistance activities of both agencies and shall make recommendations to ensure that these activities are coordinated and nonduplicative.

SEC. 4. Part 1.6 (commencing with Section 71045) is added to Division 34 of the Public Resources Code, to read:

PART 1.6. ENVIRONMENTAL MANAGEMENT SYSTEMS

71045. For the purposes of this chapter, the following definitions shall apply:

(a) "Environmental management system" means a system of standards or guidelines for the management of the activities or processes of a regulated entity that meets all of the following criteria:

- (1) The system is voluntary on the part of the regulated entity.
- (2) The system is in addition to, and not in lieu of, any permit requirement, authorization, standard, certification, or other approval issued by a federal, state, regional, or local agency.
- (3) The system results in public health or environmental benefits that exceed any benefits that may be otherwise obtained through compliance with any permit, requirement, authorization, standard, certification, or other approval issued by a federal, state,

regional, or local agency for the protection of public health or the environment, including, but not limited to, pollution prevention, reduction in energy consumption, reduction in water consumption, reduced risk to workers, and reduction in solid or hazardous waste, generated or disposed.

(4) The system results in increased quantity and quality of information available to the public on the environmental effects of the activities or processes of a regulated entity when compared to that information available to the public through compliance with any permit, requirement, authorization, standard, certification, or other approval issued by a federal, state, regional, or local agency for the protection of public health or the environment, or any other law or regulation governing public disclosure of information.

(b) "Regulated entity" means a business, public agency, or other entity subject to regulation by one or more boards, departments, or offices within the California Environmental Protection Agency.

(c) "Secretary" means the Secretary for Environmental Protection.

71046. (a) The secretary, in consultation with the boards, offices, and departments within the California Environmental Protection Agency, other interested state, regional, and local agencies, and any other interested party, and after holding at least one public hearing for the purposes of obtaining public comment on the pilot projects proposed to be selected, shall establish no more than eight pilot projects for the purpose of evaluating both of the following:

(1) Whether and how the use of an environmental management system by a regulated entity that participates in a pilot project increases public health and environmental protection over those protections provided through the issuance, enforcement, and monitoring of any permit, requirement, authorization, standard, certification, or other approval issued by a federal, state, regional, or local agency to the regulated entity for the protection of public health or the environment.

(2) Whether and how the use of an environmental management system by a regulated entity that participates in a pilot project provides the public with greater information on the nature and extent of the public health or environmental effects of activities or processes engaged in by the regulated entity than that information provided through the issuance, enforcement, and monitoring of any permit, requirement, authorization, standard, certification, or other approval issued to the regulated entity by a federal, state, regional, or local agency for the protection of public health or the environment, or any other law or regulation governing the disclosure of public information.

(b) The secretary may develop evaluation and monitoring parameters for the purpose of making the evaluation required under subdivision (a) and may develop a model memorandum of understanding to be entered into by the secretary and any regulated entity that agrees to participate in a pilot project authorized pursuant to this section. The notice of the parameters and model memorandum of understanding shall be given to the public in draft form at least 30 days prior to adoption, and shall be subject to at least one public hearing, prior to adoption, for the purpose of obtaining public comment.

(c) The secretary may enter into a memorandum of understanding with a regulated entity that voluntarily chooses to participate in a pilot project if both of the following conditions are met:

(1) The environmental management system used by the regulated entity can reasonably be expected to produce greater public health and environmental protection than would otherwise be achieved through the permits, requirements, authorizations, standards, approvals, or

certifications issued by a federal, state, regional, or local agency.

(2) The environmental management system used by the regulated entity can be monitored to allow the secretary to perform the evaluation required under subdivision (a).

(d) Notwithstanding Section 7550.5 of the Government Code, beginning January 1, 2000, the secretary shall submit quarterly reports to the Governor and the Legislature on the status of the implementation of this section.

(e) Nothing in this section shall be construed as limiting, abridging, or otherwise waiving any permit, requirement, authorization, standard, certification, or other approval issued by a federal, state, regional, or local agency pursuant to law or regulation for the protection of public health or the environment.

71047. This part shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends that date.

SEC. 5. The Legislature finds and declares that Sections 1 and 2 of this act are intended to establish in statute the authority and duties of the positions of deputy secretary for law enforcement and counsel and deputy secretary for external affairs, as created under the Governor's Reorganization Plan No. 1 of 1991, which established the California Environmental Protection Agency. It is the intent of the Legislature that any funding provided in the annual Budget Act for those positions shall be used to implement Sections 12812.2 and 12812.3 of the Government Code.

SEC. 6. The Legislature finds and declares that Section 3 of this act is intended to establish in statute the duties and responsibilities of the Secretary for Environmental Protection with regard to establishing the permit assistance centers funded by the Budget Act of 1999. It is the intent of the Legislature to ensure future stable and predictable funding for the centers.

SEC. 7. It is the intent of the Legislature in enacting Section 4 of this act to establish the criteria under which funds appropriated in the Budget Act of 1999 to the Secretary of Environmental Protection may be expended for environmental management system pilot projects.